



\$~1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1335/2025**

SUSHANT SARASWAT

.....Petitioner

Through: Mr. Rahul Thakur, Mr. Kaushal
Thakur and Mr. Vishal Thakur,
Advocates.

versus

THE STATE (N.C.T. OF DELHI)

.....Respondent

Through: Mr. Hemant Mehla, APP for State.
SI Jyoti, P.S. Burari.
Ms. Inderjeet Sidhu (DHCLSC) with
Mr. Lalit Choudhary and Mr. Aditya
Ranjan, Advocates for prosecutrix.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

%

21.11.2025

1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in FIR No. 618/2024 dated 29th September, 2024, registered at P.S. Burari, Delhi, under Sections 376(2)(n) and 506 of the Indian Penal Code, 1860³ and Section 6 the Protection of Children from Sexual Offences Act, 2012⁴.

2. The case of the prosecution, in brief, is as follows: The victim "G", aged about 19 years, submitted a written complaint at P.S. Burari on 28th

¹ "BNSS"

² "CrPC"

³ "IPC"

⁴ "POCSO Act"



September, 2024, alleging that the Applicant, Sushant Saraswat, had repeatedly subjected her to sexual assault, recorded obscene videos of her, and threatened to make those videos viral if she did not continue her relationship with him. She stated that she first met the Applicant in 2022, when she was a minor, and that after initially engaging in sexual relations, the Applicant, under a false promise of marriage, coerced and forced her into repeated sexual intercourse, particularly at a flat in Burari belonging to his friend, where he also recorded obscene videos of her. According to the complaint, when she later came to know of his involvement with other girls and attempted to distance herself, the Applicant continued to sexually exploit and blackmail her by threatening to circulate the said videos.

3. It is further alleged that in September 2024, the Applicant went to her workplace, physically assaulted her, and threatened her with an acid attack and publication of the videos. Her MLC dated 28th September, 2024, prepared at Burari Hospital, records allegations of forced sexual intercourse, physical assault, and threats spanning the period from 2022 to July 2024. During investigation, her statement under Section 183 BNSS was recorded before the Court, in which she reiterated these allegations. The FIR was registered under Sections 376(2)(n) and 506 IPC read with Section 6 POCSO Act and upon completion of investigation, a charge sheet has been filed under the said provisions.

4. The Applicant was arrested on 20th October, 2024. On seizure and examination of his mobile phone, two obscene video clips of the victim were allegedly found; the device has been sent to the FSL for analysis.

5. Counsel for the Applicant makes the following submissions:

5.1. The Applicant has clean antecedents and has been falsely implicated.



The allegations are false, frivolous, and lack substantive material. The prosecution case is based solely on the version of the victim without any independent corroboration, and the presumption of innocence being a fundamental principle must operate in favour of the Applicant.

5.2. There are material contradictions in the victim's complaint and her subsequent statement recorded under Section 164 CrPC (corresponding to Section 183 BNSS). In the first complaint, she claims to have met the Applicant while returning from school, whereas in her 164 statement she states that she was introduced to him through a common friend. Similarly, her initial complaint alleged that the Applicant called her to his friend's flat to apologise and promised marriage, but this fact is absent in her later 164 statements wherein she merely states that they were in regular contact and he used to promise marriage.

5.3. The allegation of the Applicant forcefully taking the victim on a motorcycle from her residence in a crowded locality in July 2024, without any alarm or protest from her, undermines the prosecution case. Moreover, despite alleging sexual assaults commencing in mid-2022, the victim did not approach the police or any authority for over two years and, by her own showing, continued to remain in regular contact with the Applicant throughout. This sustained interaction, is more consistent with a consensual relationship than with a scenario of continuous coercion and blackmail.

5.4. The Applicant never proposed marriage or induced the victim into a relationship on a false promise of marriage, and the physical intimacy between them was consensual and initiated by mutual desire. The Applicant cooperated with the investigation, has been in custody since 20th October, 2024, and the chargesheet now stands filed. In these circumstances, it is



urged that his further incarceration serves no purpose, and that he is willing to abide by any conditions that may be imposed by the Court.

6. On the other hand, Mr. Hemant Mehla, APP for the State, and Ms. Inderjeet Sidhu, DHCLSC counsel representing the victim, oppose the application. They submit that the allegations are grave and serious, involving repeated sexual assault on the victim when she was a minor, coupled with threats and the creation of obscene video recordings allegedly used to blackmail her into continued sexual relations. They contend that the trial is at a nascent stage and several material witnesses are yet to be examined. In these circumstances, enlargement of the Applicant on bail, at this stage, carries a real risk of intimidation or undue influence upon the victim and other witnesses, thereby imperilling a fair trial. It is further pointed out that the FSL report in respect of the obscene video clips recovered from the Applicant's mobile phone is still awaited, and that his release may create a risk of interference with or tampering of evidence.

Analysis

7. The Court has considered the aforementioned contentions. The allegations against the Applicant pertain to repeated sexual assault upon the victim, was a minor, coupled with threats to circulate intimate videos. These are undoubtedly grave. At the same time, bail cannot be declined solely because the charge is serious. At this stage, the Court is required to undertake a limited, *prima facie* assessment, keeping in view factors such as: whether there are reasonable grounds to believe that the accused has committed the offence, the nature and gravity of the accusation, the severity of the possible sentence, the risk of absconding, the likelihood of repetition, and the



possibility of interference with witnesses or the course of trial.⁵

8. The victim's statement under Section 183 BNSS, as also her deposition before the Trial Court, is detailed and, on its face, supports the prosecution version of repeated sexual assault, threats, and use of an intimate recording. The seizure of the Applicant's mobile phone and the discovery of two alleged obscene video clips of the victim, pending forensic analysis, lend *prima facie* support to the allegation that such recordings were used as a means of exerting pressure on her. The fact that the alleged exploitation began when she was a minor also calls for a cautious approach.

9. However, at this stage, this Court cannot conduct a meticulous evaluation of every inconsistency or circumstance as would be done at trial. On a broad, *prima facie* basis, certain aspects of the record assume relevance. The alleged sexual exploitation is said to have commenced in 2022, whereas the FIR was lodged in September 2024. The explanation for this delay, as it presently emerges, is general and will require careful evaluation in due course. The authenticity, authorship, and precise context of the video clips discovered on the Applicant's device remain to be established on the strength of the FSL report and the evidence that may be led. Likewise, the alleged discrepancies between the victim's initial complaint and her later statement under Section 183 BNSS are matters for appreciation by the Trial Court. These aspects cannot be treated as determinative at this stage, but they do indicate that the prosecution case rests on issues which will require close scrutiny at trial, rather than justifying pre-trial detention.

10. As regards the allegation of sexual intercourse on a false promise of

⁵ *Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.* (2010) 14 SCC 496.



marriage, it would be premature at this stage to return any conclusive view on whether such a promise was made, whether it was genuine at inception, or whether the relationship later broke down for independent reasons. The prosecution case, primarily, rests on the oral accounts of the parties. Questions of intent, voluntariness, and the impact of any such promise on the victim's consent are matters to be tested on evidence. What can be noted, for present purposes, is that even according to the prosecution, the relationship continued over a considerable period beginning 2022, in which the parties remained in regular contact.

11. As per Nominal Roll as on 19th May, 2025, the Applicant, at present, has already undergone approximately 1 year of incarceration and has no prior criminal antecedents. The settled position of law, as reiterated in a catena of decisions of the Supreme Court, is that the object of bail is neither punitive nor preventive. Its primary purpose is to ensure the presence of the accused during trial and not to inflict pre-trial punishment.⁶

12. Chargesheet stands filed and the investigation is complete. Significantly, the victim's examination-in-chief and cross-examination already stand concluded before the Trial Court. The principal witness, therefore, has deposed in full. In this backdrop, the apprehension that the Applicant may now influence or intimidate the victim is substantially reduced. Concerns regarding other witness can be addressed by imposing strict conditions. Applicant's custody is no longer necessary.

13. In view of the totality of the circumstances, including the stage of trial, completion of the prosecutrix's testimony, the aspect of delay in

⁶ See: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



reporting the alleged offences, completion of investigation, and the principle that bail, not jail, is the rule, this Court is of the considered opinion that further incarceration of the Applicant is not warranted at this stage.

14. The Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall not contact the victim or any of her family members;
- d. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- e. The Applicant shall appear before the Trial Court as and when directed;
- f. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- g. The Applicant shall not reside within 3 km radius of the residence of the victim and shall also furnish proof of his residence to the concerned IO. The Applicant shall also not move in the vicinity of the victim in any manner;



- h. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.
- i. The Applicant shall report to the concerned PS on first Friday of every month. However, he shall not be kept waiting for more than an hour.
15. In the event of there being any FIR / DD entry / complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
16. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.
17. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

NOVEMBER 21, 2025/as